

FIRST REGULAR SESSION
[P E R F E C T E D]
SENATE SUBSTITUTE NO. 2 FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 161
94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR SHIELDS.

Offered February 22, 2007.

Senate Substitute No. 2 adopted, February 22, 2007.

Taken up for Perfection February 22, 2007. Bill declared Perfected and Ordered Printed.

TERRY L. SPIELER, Secretary.

0508S.04P

AN ACT

To repeal section 210.245, RSMo, and to enact in lieu thereof two new sections relating to quality rating system for child care facilities.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 210.245, RSMo, is repealed and two new sections
2 enacted in lieu thereof, to be known as sections 210.205 and 210.245, to read as
3 follows:

**210.205. 1. By September 1, 2007, the department of social
2 services in collaboration with the departments of health and senior
3 services, elementary and secondary education, and mental health shall
4 develop a quality rating system for early childhood and before- and
5 after-school programs licensed by the department of health and senior
6 services that operate in this state. Such ratings shall be built upon
7 Missouri's current system of licensing and regulation. The base level
8 of the rating system shall be licensing, and the highest level of the
9 rating system shall include accreditation by a state or nationally
10 recognized accrediting agency. The department of social services shall
11 utilize the model from the existing Missouri quality rating system pilots
12 developed by the University of Missouri Center for Family Policy and
13 Research, or any successor organization, to establish this system.**

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

14 **2. The quality rating system shall:**

15 **(1) Provide information for consumers and parents to evaluate**
16 **and select high quality programs;**

17 **(2) Create an accountability system for policymakers and those**
18 **who fund early childhood and before- and after-school programs;**

19 **(3) Guide providers through a system of ever increasing levels**
20 **of quality with specific outcomes.**

21 **3. By July 1, 2014, one hundred percent of all licensed facilities**
22 **shall be rated using the quality rating system established under this**
23 **section. The coordinating board for early childhood, established under**
24 **section 210.102, shall develop a plan for a tiered system of**
25 **reimbursement for child care subsidies based on the quality rating**
26 **system established under this section. The plan shall be submitted to**
27 **the general assembly with recommendations for implementation of the**
28 **reimbursement system, to begin July 1, 2009.**

29 **4. There is hereby created in the state treasury the "Quality**
30 **Rating System Program Improvement Grant Fund". Within this fund**
31 **there is created a first sub-account which shall consist of all gifts,**
32 **donations, transfers, and bequests to the fund. Notwithstanding the**
33 **provisions of section 33.080, RSMo, to the contrary, any moneys**
34 **remaining in this first sub-account shall not revert to the credit of the**
35 **general revenue fund. There is also created a second sub-account**
36 **consisting of moneys appropriated by the general assembly. Any**
37 **moneys remaining in this second sub-account shall at the end of the**
38 **biennium revert to the credit of the general revenue fund. The state**
39 **treasurer shall be custodian of the fund and may approve**
40 **disbursements from the fund in accordance with sections 30.170 and**
41 **30.180, RSMo. Upon appropriation, money in the fund shall be used**
42 **solely for the administration of this section to provide grants directly**
43 **to licensed providers seeking assistance for quality improvements to**
44 **undergo evaluation under the quality rating system established under**
45 **this section or to community-based organizations assisting providers**
46 **with such improvements. The fund shall be administered by the**
47 **department of social services. The state treasurer shall invest moneys**
48 **in the fund in the same manner as other funds are invested. Any**
49 **interest and moneys earned on such investments shall be credited to**
50 **the fund.**

51 **5. The departments of social services in collaboration with the**
52 **departments of health and senior services and elementary and**
53 **secondary education shall be responsible for:**

54 **(1) Collecting and distributing resource materials to educate the**
55 **public and early childhood and before- and after-school programs in**
56 **Missouri about the quality rating system established under this section;**

57 **(2) Developing and distributing educational materials, including**
58 **but not limited to brochures and other media as part of a**
59 **comprehensive public relations campaign about the useful and**
60 **informational system of assessing the quality of child care and early**
61 **childhood programs in Missouri; and**

62 **(3) Posting the ratings of the quality rating system on the**
63 **Internet in a format easily understood and accessible by the public by**
64 **January 1, 2009.**

65 **6. The department of social services shall promulgate rules to**
66 **implement the provisions of this section. Any rule or portion of a rule,**
67 **as that term is defined in section 536.010, RSMo, that is created under**
68 **the authority delegated in this section shall become effective only if it**
69 **complies with and is subject to all of the provisions of chapter 536,**
70 **RSMo, and, if applicable, section 536.028, RSMo. This section and**
71 **chapter 536, RSMo, are nonseverable and if any of the powers vested**
72 **with the general assembly pursuant to chapter 536, RSMo, to review, to**
73 **delay the effective date, or to disapprove and annul a rule are**
74 **subsequently held unconstitutional, then the grant of rulemaking**
75 **authority and any rule proposed or adopted after August 28, 2007, shall**
76 **be invalid and void.**

77 **7. For purposes of this section, "early childhood program" shall**
78 **mean programs that are both centered and home-based and providing**
79 **services for children from birth to kindergarten.**

80 **8. Pursuant to section 23.253, RSMo, of the Missouri sunset act:**

81 **(1) The provisions of the new program authorized under this**
82 **section shall automatically sunset six years after the effective date of**
83 **this section unless reauthorized by an act of the general assembly; and**

84 **(2) If such program is reauthorized, the program authorized**
85 **under this section shall automatically sunset six years after the**
86 **effective date of the reauthorization of this section; and**

87 **(3) This section shall terminate on September first of the**

88 **calendar year immediately following the calendar year in which the**
89 **program authorized under this section is sunset.**

210.245. 1. Any person who violates any provision of sections 210.201 to
2 210.245, or who for such person or for any other person makes materially false
3 statements in order to obtain a license or the renewal thereof pursuant to sections
4 210.201 to 210.245, shall be guilty of an infraction for the first offense and shall
5 be assessed a fine not to exceed two hundred dollars and shall be guilty of a class
6 A misdemeanor for subsequent offenses. In case such guilty person is a
7 corporation, association, institution or society, the officers thereof who participate
8 in such misdemeanor shall be subject to the penalties provided by law.

9 2. If the department of health and senior services proposes to deny,
10 suspend, place on probation, **deny renewal of**, or revoke a license, the
11 department of health and senior services shall serve upon the applicant or
12 licensee written notice of the proposed action to be taken **no less than ninety**
13 **days before the action is taken. No such action against a license may**
14 **be taken until the ninety-day notice period has elapsed. The ninety-day**
15 **notice period shall not be applicable to actions by the department**
16 **under subsections 5 and 6 of this section.** The notice shall contain a
17 statement of the type of action proposed, the basis for it, the date the action will
18 become effective, and a statement that the applicant or licensee shall have thirty
19 days to request in writing a hearing before the administrative hearing
20 commission and that such request shall be made to the department of health and
21 senior services. If no written request for a hearing is received by the department
22 of health and senior services within thirty days of the delivery or mailing by
23 certified mail of the notice to the applicant or licensee, the proposed discipline
24 shall take effect on the [thirty-first] **ninety-first** day after such delivery or
25 mailing of the notice to the applicant or licensee. If the applicant or licensee
26 makes a written request for a hearing, the department of health and senior
27 services shall file a complaint with the administrative hearing commission within
28 ninety days of receipt of the request for a hearing. **If a written request for a**
29 **hearing is requested by the applicant or licensee, no suspension,**
30 **probation, denial of renewal, or revocation of a license may occur until**
31 **the judgment of the administrative hearing commission is issued.**

32 3. The department of health and senior services may issue letters of
33 censure or warning without formal notice or hearing. Additionally, the
34 department of health and senior services may place a licensee on probation

35 pursuant to chapter 621, RSMo.

36 4. The department of health and senior services may suspend any license
37 simultaneously with the notice of the proposed action to be taken in subsection
38 2 of this section, if the department of health and senior services finds that there
39 is a threat of imminent bodily harm to the children in care. The notice of
40 suspension shall include the basis of the suspension and the appeal rights of the
41 licensee pursuant to this section. The licensee may appeal the decision to
42 suspend the license to the department of health and senior services. The appeal
43 shall be filed within ten days from the delivery or mailing by certified mail of the
44 notice of appeal. A hearing shall be conducted by the department of health and
45 senior services within ten days from the date the appeal is filed. The suspension
46 shall continue in effect until the conclusion of the proceedings, including review
47 thereof, unless sooner withdrawn by the department of health and senior services,
48 dissolved by a court of competent jurisdiction or stayed by the administrative
49 hearing commission. Any person aggrieved by a final decision of the department
50 made pursuant to this section shall be entitled to judicial review in accordance
51 with chapter 536, RSMo.

52 5. In addition to initiating proceedings pursuant to subsection 1 of this
53 section, or in lieu thereof, the prosecuting attorney of the county where the
54 child-care facility is located may file suit for a preliminary and permanent order
55 overseeing or preventing the operation of a child-care facility for violating any
56 provision of sections 210.201 to 210.245. The order shall remain in force until
57 such a time as the court determines that the child-care facility is in substantial
58 compliance. If the prosecuting attorney refuses to act or fails to act after receipt
59 of notice from the department of health and senior services, the department of
60 health and senior services may request that the attorney general seek an
61 injunction of the operation of such child-care facility.

62 6. In cases of imminent bodily harm to children in the care of a child-care
63 facility, the department may file suit in the circuit court of the county in which
64 the child-care facility is located for injunctive relief, which may include removing
65 the children from the facility, overseeing the operation of the facility or closing
66 the facility.

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